

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	09/771,809	AMATUCCI, GLENN G.
	Examiner Julian Mercado	Art Unit 1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS**. This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 4-28-04.

2.  The allowed claim(s) is/are 8-11.

3.  The drawings filed on 29 January 2001 are accepted by the Examiner.

4.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All    b)  Some\*    c)  None    of the:

1.  Certified copies of the priority documents have been received.

2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.

3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

6.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.

(a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached  
1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.

(b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of  
Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

7.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

#### Attachment(s)

- 1.  Notice of References Cited (PTO-892)
- 2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
- 4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
- 5.  Notice of Informal Patent Application (PTO-152)
- 6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
- 7.  Examiner's Amendment/Comment
- 8.  Examiner's Statement of Reasons for Allowance
- 9.  Other \_\_\_\_\_.

**DETAILED ACTION**

***Examiner's Amendment***

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Alexander Pagano on August 17, 2004.

The application has been amended as follows:

- a. Claims 1-7 have been canceled.
- b. In claim 8 at line 2, "and" has been changed to --an--.

***Remarks***

This Office action is responsive to applicant's amendment filed April 28, 2004.

***Claim Rejections - 35 USC § 103***

The rejection of claims 8-10 under 35 U.S.C. 103(a) based on Atsumi et al. (U.S. Pat. 6,120,938) and Peramunage et al. ("Preparation of Micron-Sized Li<sub>4</sub>Ti<sub>5</sub>O<sub>12</sub> and its Electrochemistry in Polyacrylonitrile Electrolyte-Based Lithium Cells", *J. Electrochem. Soc.*, 1998, Vol. 145, No. 8, pp. 2609-2615) has been withdrawn.

As a matter of record, the examiner acquiesces with applicant's assertion that the nanostructure lithium intercalation compound disclosed by Atsumi et al. having a particle size of 0.05  $\mu\text{m}$  to 50  $\mu\text{m}$  is drawn to *hydrogen* lithium titanate and not lithium titanate *per se*, such as of the formula  $\text{Li}_4\text{Ti}_5\text{O}_{12}$ . Upon further review, the largest particle size of lithium titanate in Atsumi et al. is in the range of 0.2 – 0.4  $\mu\text{m}$ . (Comparative example of Table 2)

***Allowable Subject Matter***

Claims 8-11 are allowed.

The following is an examiner's statement of reasons for allowance: the prior art of record does not teach or render obvious the instant invention regarding a lithium titanate intercalation compound comprising lithium titanate particles of less than 100 nm. Applicant's disclosure in Figures 4 and 5 is noted to show an increased cycle rate capacity and capacity retention, respectively, for the claimed lithium titanate intercalation compound when used as the active material component in battery cell electrodes.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

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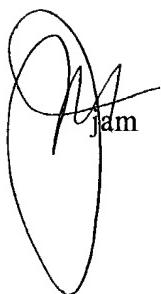
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian Mercado whose telephone number is (571) 272-1289. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick J. Ryan, can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Julian Mercado



Patrick J. Ryan  
Supervisory Patent Examiner  
Technology Center 1700